



BILLING CODE: 4810-AM-P

BUREAU OF CONSUMER FINANCIAL PROTECTION

Privacy Act of 1974, as Amended

AGENCY: Bureau of Consumer Financial Protection

ACTION: Notice of Proposed Privacy Act System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Bureau of Consumer Financial Protection, hereinto referred to as the Consumer Financial Protection Bureau (CFPB or the Bureau), gives notice of the establishment of a Privacy Act System of Records.

DATES: Comments must be received no later than [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*]. The new system of records will be effective [INSERT DATE 40 DAYS AFTER PUBLICATION IN THE *FEDERAL REGISTER*], unless the comments received result in a contrary determination.

ADDRESSES: You may submit comments by any of the following methods:

- *Electronic:* privacy@cfpb.gov
- *Mail/Hand Delivery/Courier:* Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.

Comments will be available for public inspection and copying at 1700 G Street, NW, Washington, DC 20552 on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect comments by telephoning (202) 435-7220. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Claire Stapleton, Chief Privacy Officer, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552, (202) 435-7220.

SUPPLEMENTARY INFORMATION: The Dodd-Frank Wall Street Reform and Consumer Protection Act (Act), Public Law No. 111-203, Title X, established the CFPB to administer and enforce Federal consumer financial laws.

Section 1017(d) of the Act establishes a “Consumer Financial Civil Penalty Fund” (Civil Penalty Fund). Pursuant to section 1017(d)(1) of the Act, the CFPB will deposit into the Civil Penalty Fund any civil penalties it collects from any person in any judicial or administrative action taken by the Bureau under Federal consumer financial laws. The funds in the Civil Penalty Fund may be used “for payments to the victims of activities for which civil penalties have been imposed under the Federal consumer financial laws.”¹ The Bureau outlined how it will use money in the Civil Penalty Fund in the Consumer Financial Civil Penalty Fund Rule, 12 CFR Part 1075.

In addition, pursuant to section 1055(a) of the Act, the CFPB may obtain various types of monetary relief—including restitution, refunds, and damages—in judicial and administrative proceedings. Collectively, these forms of relief are referred to as “redress.” In some cases, an order will require a defendant to pay redress to the Bureau for the Bureau to distribute to the victims of the defendant’s activities. This is known as “Bureau-Administered Redress.”

The new system of records described in this notice, “CFPB.025 – Civil Penalty Fund and Bureau-Administered Redress Program Records” will enable the CFPB to

¹ 12 U.S.C. 5497(d)(2).

manage the distributions of Civil Penalty Fund and redress monies to consumers, including: (1) tracking the collection, allocation, and distribution of funds in the Civil Penalty Fund and redress monies; (2) identifying and locating victims who may receive payments from the Civil Penalty Fund and/or redress payments; (3) determining the amounts of the Civil Penalty Fund payments and redress payments that the Bureau will make to victims; (4) maintaining accounting and financial information associated with such payments; and (5) developing reports to applicable federal, state, and local taxing officials of taxable income, and reports necessary to meet other reporting requirements. The CFPB will maintain control over the records covered by this notice.

The report of the new system of records has been submitted to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A-130, “Federal Agency Responsibilities for Maintaining Records About Individuals,” dated November 30, 2000,² and the Privacy Act, 5 U.S.C. 552a(r).

The system of records entitled “CFPB.0XX – Civil Penalty Fund and Bureau-Administered Redress Program Records” is published in its entirety below.

Date: May 28, 2013

Claire Stapleton,
Chief Privacy Officer, Bureau of Consumer Financial Protection.

CFPB.025

² Although the CFPB, under 12 U.S.C. 5497(a)(4)(E), is not legally required to follow OMB-issued guidance, it voluntarily follows OMB privacy-related guidance as a best practice and to facilitate cooperation and collaboration with other agencies.

SYSTEM NAME:

Civil Penalty Fund and Bureau-Administered Redress Program Records

SYSTEM LOCATION:

Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include, without limitation: (1) individuals identified as victims or potential victims who may receive payments from the Civil Penalty Fund or through Bureau-Administered Redress, including but not limited to current, former, and prospective consumers who are or have been customers or prospective customers of entities ordered to pay a civil penalty or redress to the Bureau as a result of a Bureau enforcement action; (2) individuals associated with entities and individuals that have been ordered to pay a civil penalty or redress to the Bureau as a result of a Bureau enforcement action; and (3) others, including CFPB employees, with information relevant to, or otherwise associated with, a Bureau enforcement action that has resulted in an order to pay civil penalties or redress to the Bureau.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records in this system may contain identifiable information about individuals including, without limitation: (1) name, address, e-mail address, phone number and other contact information; (2) Social Security number (SSN), age, date of birth, marital status, records of consumer financial transactions, financial account information, and internal identification number assigned to identified victims; (3) accounting and financial information relevant to making payment; and (4) accounting and financial information

relevant to determining when and in what amounts victims have claimed funds.

Additionally, non-identifying information in the system may include the dates the Bureau authorized, instituted, settled, and/or otherwise obtained a final judgment in a judicial or administrative action; an internal case tracking number; the date the judicial or administrative order was entered; the date the judicial or administrative order became a “final order” as defined by the Consumer Financial Civil Penalty Fund Rule, 12 CFR Part 1075; the amount of civil penalties or redress ordered; the due date for payments of civil penalties and redress funds; the date and amount of payments made; the status of debt collection efforts; and the balances of the Bureau’s accounts as payments are made.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 111-203, Title X, Sections 1017(d), 1055(a), codified at 12 U.S.C. §§ 5497(d), 5565(a).

PURPOSE(S):

The system will enable the CFPB to manage the distribution of Civil Penalty Fund and redress monies to consumers, including: (1) tracking the collection, allocation, and distribution of funds in the Civil Penalty Fund and redress monies; (2) identifying and locating victims who may receive payments from the Civil Penalty Fund and/or redress payments; (3) determining the amounts of the Civil Penalty Fund payments and redress payments that the Bureau will make to victims; (4) maintaining accounting and financial information associated with such payments; and (5) developing reports to applicable federal, state, and local taxing officials of taxable income, and reports necessary to meet other reporting requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed, consistent with the CFPB Disclosure of Records and Information Rules, promulgated at 12 C.F.R. 1070 *et seq.*, to:

- (1) Appropriate agencies, entities, and persons when: (a) the CFPB suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the CFPB has determined that, as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the CFPB or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the CFPB's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;
- (2) Another federal or state agency to (a) permit a decision as to access, amendment or correction of records to be made in consultation with or by that agency, or (b) verify the identity of an individual or the accuracy of information submitted by an individual who has requested access to or amendment or correction of records;
- (3) To the Office of the President in response to an inquiry from that office made at the request of the subject of a record or a third party on that person's behalf;
- (4) Congressional offices in response to an inquiry made at the request of the individual to whom the record pertains;
- (5) Contractors, agents, or other authorized individuals performing work on a contract, service, cooperative agreement, job, or other activity on behalf of the

CFPB or Federal Government and who have a need to access the information in the performance of their duties or activities;

- (6) The U.S. Department of Justice (DOJ) for its use in providing legal advice to the CFPB or in representing the CFPB in a proceeding before a court, adjudicative body, or other administrative body, where the use of such information by the DOJ is deemed by the CFPB to be relevant and necessary to the advice or proceeding, and such proceeding names as a party in interest:
 - (a) The CFPB;
 - (b) Any employee of the CFPB in his or her official capacity;
 - (c) Any employee of the CFPB in his or her individual capacity where DOJ has agreed to represent the employee; or
 - (d) The United States, where the CFPB determines that litigation is likely to affect the CFPB or any of its components;
- (7) Appropriate federal, state, local, foreign, tribal, or self-regulatory organizations or agencies responsible for investigating, prosecuting, enforcing, implementing, issuing, or carrying out a statute, rule, regulation, order, policy, or license if the information may be relevant to a potential violation of civil or criminal law, rule, regulation, order, policy or license;
- (8) These records may be disclosed to a court, magistrate, or administrative tribunal in the course of an administrative proceeding or judicial proceeding, including disclosures to opposing counsel or witnesses (including expert witnesses) in the course of discovery or other pre-hearing exchanges of information, litigation, or

settlement negotiations, where relevant or potentially relevant to a proceeding, or in connection with criminal law proceedings;

- (9) An entity or person that is the subject of a judicial or administrative action resulting in an order to pay civil penalties or redress to the Bureau, and the attorney or non-attorney representative for that entity or person;
- (10) To the Treasury Department, Internal Revenue Service, or other governmental entities, including state and local taxing officials, to comply with tax-reporting obligations;
- (11) A financial institution holding Civil Penalty Fund or redress monies on behalf of the Bureau in order to issue payments to identified victims;
- (12) The Office of Inspector General, the Government Accountability Office, or other governmental entities as necessary to comply with reporting obligations regarding the disbursement of Civil Penalty Fund or redress monies; and
- (13) The Federal Deposit Insurance Corporation (FDIC) in order to make claims under the FDIC's deposit insurance claims process, in the event a financial institution holding Civil Penalty Fund or redress monies on behalf of the Bureau fails.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING,

RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and electronic records.

RETRIEVABILITY:

Records are retrievable by a variety of fields including, but not limited to, individual name, address, financial account number, internal identification number assigned to identified victims, or by some combination thereof.

SAFEGUARDS:

Access to electronic records is restricted to authorized personnel who have been issued non-transferrable access codes and passwords. Other records are maintained in locked file cabinets or rooms with access limited to those personnel whose official duties require access.

RETENTION AND DISPOSAL:

The CFPB will maintain electronic and paper records indefinitely until the National Archives and Records Administration (NARA) approves the CFPB's records disposition schedule.

SYSTEM MANAGER(S) AND ADDRESS:

Consumer Financial Protection Bureau, Chief Financial Officer, 1700 G Street NW, Washington, DC 20552.

NOTIFICATION PROCEDURE:

Individuals seeking notification and access to any record contained in this system of records, or seeking to contest its content, may inquire in writing in accordance with instructions appearing in Title 12, Chapter 10 of the CFR, Part 1070, "Disclosure of Records and Information." Address such requests to: Chief Privacy Officer, Bureau of Consumer Financial Protection, 1700 G Street NW, Washington, DC 20552.

RECORD ACCESS PROCEDURES:

See "Notification Procedures" above.

CONTESTING RECORD PROCEDURES:

See "Notification Procedures" above.

RECORD SOURCE CATEGORIES:

Information in this system is provided by (1) individuals identified as victims or potential victims who may receive payments from the Civil Penalty Fund or through Bureau-Administered Redress, including but not limited to current, former, and prospective consumers who are or have been customers or prospective customers of entities ordered to pay a civil penalty or redress to the Bureau as a result of a Bureau enforcement action; (2) entities and individuals associated with entities and individuals that have been ordered to pay a civil penalty or redress to the Bureau as a result of a Bureau enforcement action; and (3) others, including CFPB employees, with information relevant to, or otherwise associated with, a Bureau enforcement action that has resulted in an order to pay civil penalties or redress to the Bureau.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

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06/11/2013]